

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ANTHONY BELMOSA,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendant.
-----X

Index No.:

**VERIFIED
COMPLAINT**

Plaintiff, ANTHONY BELMOSA, by his attorneys, ROSENBAUM & ROSENBAUM, P.C., sets forth and alleges the following under information and belief as and for his Verified Complaint:

THE PARTIES

1. At all relevant times Plaintiff was and still is a resident of the County of Queens, State of New York.

2. Upon information and belief and at all relevant times, defendant, UNITED STATES OF AMERICA, was and still is a government corporation doing business in the State of New York.

3. Upon information and belief and at all relevant times, the UNITED STATES POSTAL SERVICE was and still is a federal governmental agency, which must come under the provision of the Federal Tort Claims Act.

4. That pursuant to the Federal Tort Claims Act, this action is being instituted against the defendant, UNITED STATES OF AMERICA, rather than against the UNITED STATES POSTAL SERVICE., the government agency involved herein.

JURISDICTION

5. This action arises under the Federal Tort Claims Act 28 U.S.C § 1346(b), 2671-80.

VENUE

6. Venue is proper in this district since the action arose in the County of Queens, State of New York, which is located in the geographical boundaries of the United States District Court, Eastern District of New York.

PROCEDURAL PREQUISTIES MET

7. That on June 21, 2018, claim was filed with the United States Postal Service detailing the facts of the accident involved and the injuries and damages sustained by the plaintiff herein.

8. That on August 1, 2019, the UNITED STATES POSTAL SERVICE, the administrative agency involved, issued a denial of the claim.

9. That pursuant to 28 U.S.C. §2401(b) and 39 C.R.R. 912.9(a) plaintiff is instituting this action within six (6) months of the aforesaid denial of claim issued by the UNITED STATES POSTAL SERVICE.

AS AND FOR A FIRST CAUSE OF ACTION

10. Upon information and belief, and at all relevant times, the United States Postal Service owned a United States Post Office located at 250 North Boundary Road, Suite 1, Jamaica, New York 11430, which services John F. Kennedy International Airport.

11. Upon information and belief, and at all relevant times, the United States Postal Service, by its agents, servants, employees, staff, licensees and/or independent contractors, maintained a United States Post Office located at 250 North Boundary Road, Suite 1, Jamaica, New York 11430, which services John F. Kennedy International Airport.

12. Upon information and belief, and at all relevant times, the United States Postal Service, by its agents, servants, employees, staff, licensees and/or independent contractors, managed a United States Post Office located at 250 North Boundary Road, Suite 1, Jamaica, New York 11430, which services John F. Kennedy International Airport.

13. Upon information and belief, and at all relevant times, the United States Postal Service, by its agents, servants, employees, staff, licensees and/or independent contractors, controlled a United States Post Office located at 250 North Boundary Road, Suite 1, Jamaica, New York 11430, which services John F. Kennedy International Airport.

14. Upon information and belief, and at all relevant times, the United States Postal Service, by its agents, servants, employees, staff, licensees and/or independent contractors repaired a United States Post Office located at 250 North Boundary Road, Suite 1, Jamaica, New York 11430, which services John F. Kennedy International Airport.

15. Upon information and belief, and at all relevant times, the United States Postal Service was charged with the duty of keeping the aforesaid United States Post Office, including the adjacent parking area, loading area, drop off area, sidewalk, walkway, pathway and adjacent pavement, in a reasonably safe condition, free from traps, and nuisances and free from other dangers constituting a menace to all persons lawfully and properly walking along the aforesaid premises (hereinafter "Accident Location").

16. On August 22, 2016, while plaintiff, ANTHONY BELMOSA, was lawfully

walking along the Accident Location after stepping out of his vehicle was caused to trip and fall violently to the ground due the negligently owned, maintained, managed, controlled, and repaired area of pavement which was uneven, cracked, depressed, broken, degraded, and otherwise posed a nuisance and danger to all lawfully traversing the Accident Location.

17. The aforesaid occurrence was caused by reason of the negligence of the United States Postal Service and defendant, UNITED STATES OF AMERICA, their respective agents, servants, employees and contractors, in that they, individually and jointly, negligently maintained, and/or repaired the Accident Location; more specifically in causing the pavement become and remain in an unsafe and unlawful condition; in maintaining and allowing a defect in the pavement to exist; in failing to properly repair or remedy the aforesaid defective conditions despite notice of same; in failing to take proper steps to safeguard the plaintiff; in failing to set up barriers and warnings; in creating, causing and allowing the dangerous and defective conditions to exist and remain for an unreasonably long period of time prior to the accident; in causing, permitting and allowing the dangerous erosion, depression and deterioration of the surface of the aforementioned pavement; in causing, allowing and permitting the existence of cracks, depressions, excavations and/or erosions to exist and remain at the aforementioned location; in failing to inspect the pavement; in failing to make the aforementioned pavement a safe place to walk; in failing to exercise due and required care, caution and forbearance in the ownership, operation, management, construction, maintenance and control of the aforesaid pavement; and in otherwise failing to use reasonable care, caution, and prudence.; in that they failed to properly repair and remedy the aforesaid defective conditions despite notice of same; in that they failed to take proper steps to safeguard plaintiff; in that they failed to set up barriers, and warnings; in creating and causing and allowing the dangerous and defective conditions to exist and remain for an unreasonably long

period of time prior the accident; and in that they failed to exercise due and required care, caution and forbearance in the ownership, and maintenance of the mailbox.

18. Upon information and belief, defendant, UNITED STATES OF AMERICA, had actual and/or constructive notice of the dangerous and defective conditions created by the removal of the mailbox.

19. By reason of the foregoing, plaintiff was made sick, sore, lame and disabled and has remained so since the occurrence; has suffered and continues to suffer from severe pain, suffering, physical and mental distress and anguish, fright, shock and nervousness; has and will be required to undergo painful medical treatments; has been and will continue to be prevented from attending to plaintiff's usual activities; and, upon information and belief, plaintiff's injuries are permanent in nature.

20. The aforesaid occurrence and the damages sustained by the plaintiff sustained were caused solely by the negligence and carelessness of the defendant herein and were not due to any negligence on the part of the plaintiff.

PRAYER FOR RELIEF

21. That as a result of the foregoing, plaintiff, ANTHONY BELMOSA, was damaged in the sum of FIVE MILLION (\$5,000,000.00) DOLLARS.

WHEREFORE, plaintiff, ANTHONY BELMOSA, demands monetary damages and judgment against the defendant on all causes of action herein, together with all costs and disbursements of this action.

Dated: New York, New York
November 18, 2019



MATTHEW T. GAMMONS, ESQ.

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ATTORNEY VERIFICATION

STATE OF NEW YORK - COUNTY OF NEW YORK)SS:

MATTHEW T. GAMMONS, ESQ. an attorney duly admitted to practice before the Courts of the State of New York and the United States District Court of the Eastern District of New York hereby affirms the following to be true under penalty of perjury:

I am an attorney associated with **ROSENBAUM & ROSENBAUM, P.C.**, attorneys of record for the plaintiffs in the above action.

I have read the annexed ***VERIFIED COMPLAINT*** and know the contents thereof. The same is true to my own knowledge, except as to the matters stated therein to be alleged upon information and belief, and as to those matters I believe them to be true. The reason this Verification is made by me and not by plaintiff, is that the plaintiff resides outside of the county in which I maintain my law office.

The grounds of my belief as to all matters not stated therein upon my own knowledge are as follows: a review of the file maintained by this office, books records and investigation.

Dated: New York, New York
November 18, 2019



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